

EXHIBIT “B”

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Case No. 1:22-cv-07953-ER

PREPARED FOOD PHOTOS, INC.
f/k/a ADLIFE MARKETING &
COMMUNICATIONS CO., INC.,

Plaintiff,

v.

TRIP RESTAURANT LLC d/b/a
WELLINGTON'S GRILL,

Defendant.

DECLARATION OF DANIEL DESOUZA

Daniel DeSouza does hereby declare pursuant to 28 U.S.C. § 1746:

1. I submit this declaration in support of plaintiff Prepared Food Photos, Inc. f/k/a Adlife Marketing & Communications Co., Inc.'s ("Plaintiff") Motion for Default Final Judgment against defendant Trip Restaurant LLC d/b/a Wellington's Grill ("Defendant"). This declaration and the facts stated herein are based upon my personal knowledge.

2. I have been a member in good standing of the New York Bar since 2005 and the Florida Bar since 2006. I am one of two principal shareholders of the law firm CopyCat Legal PLLC ("CopyCat Legal"), which has provided legal services to Plaintiff in this action throughout the pendency of this action.

3. I am a 2004 graduate of the George Washington University Law School and am admitted to both the Florida Bar and the New York Bar. I am likewise admitted to several federal courts throughout the country, including: (a) the United States Court of Appeals for the Eleventh Circuit; (b) the United States Court of Appeals for the Eighth Circuit; (c) the United States Court

of Appeals for the Tenth Circuit; (d) the United States District Court for the Southern District of Florida; (e) the United States District Court for the Middle District of Florida; (f) the United States District Court for the Northern District of Florida; (g) the United States District Court for the Southern District of Texas; (h) the United States District Court for the Eastern District of Texas; (i) the United States District Court for the Southern District of New York; (j) the United States District Court for the Eastern District of New York; (k) the United States District Court for the Northern District of New York; (l) the United States District Court for the Western District of Arkansas; (m) the United States District Court for the District of Nebraska; (n) the United States District Court for the District of New Mexico; (o) the United States District Court for the District of Colorado; (p) the United States District Court for the Eastern District of Michigan; (q) the United States District Court for the Western District of Michigan; (r) the United States District Court for the Northern District of Illinois; (s) the United States District Court for the District of Maryland; and (t) the United States District Court for the District of Western Texas – *pending being sworn in*. I previously worked at Milbank, Tweed, Hadley & McCloy LLP (from 2004 – 2010) and Becker & Poliakoff, PA (from 2010 – 2014) before forming DeSouza Law, P.A. in 2014 and CopyCat Legal in 2019.

4. Since 2004, my practice has principally focused on business/complex commercial and intellectual property litigation. During that time, I have served as counsel of record in dozens of copyright infringement, trade secret, and trademark infringement lawsuits. In total, I have served as counsel of record in approximately 250 federal civil and/or bankruptcy actions and 250+ state court lawsuits in Florida/New York.

5. In addition to myself, a first-year associate (Lauren Hausman) also billed time on this matter. She is a 2021 graduate of Elon University School of Law. She graduated third in her

class with *magna cum laude* distinction, served on law review, and is in the Order of Barristers. Further, she has three publications;¹ clinical, civil, and criminal experience; and externed for an Article III Federal Judge. She is admitted to the Florida Bar and both the United States District Court for the Southern District of Florida and the United States District Court for the Middle District of Florida.

6. The purpose of this declaration is to memorialize the fees for legal services, costs, and expenses provided by CopyCat Legal in the above-captioned case through the present date.

7. CopyCat Legal establishes standard hourly rates for services provided by its attorneys. These rates are within the range charged by other lawyers in South Florida and are fair and reasonable rates for this type of work.

8. I am familiar with the services provided to Plaintiff in this action and the rates charged for such work.

9. The attorneys and paralegals at CopyCat Legal record the time spent on matters contemporaneously on electronic billing software/time sheets. Each time entry includes the date the work is performed, the client and matter numbers, the time spent, and a brief description of the nature of the work performed.

10. Through the present date, I expended 4.5 hours of attorney time in prosecuting this matter on Plaintiff's behalf, an associate attorney (Lauren Hausman) expended 3.10 hours of attorney time in prosecuting this matter on Plaintiff's behalf, and a paralegal (Hali Thomas) expended 0.40 hours of time in prosecuting this matter on Plaintiff's behalf. This includes the time spent to investigate the alleged infringement, drafting an initial notice letter to Defendant, drafting the Complaint in this matter, attempting to contact Defendant, drafting the Motion for Clerk's

¹ Two of Ms. Hausman's articles are forthcoming.

Default, drafting the Motion for Entry of Default Judgment, and drafting the exhibits/supporting declarations for such motion. All of these time entries are reflected in CopyCat Legal's billing records that are being provided in connection herewith as **Exhibit “1.”**

11. My billable rate for copyright/intellectual property matters at CopyCat Legal is \$450.00 per hour and the rate for paralegals is \$125.00 per hour. This rate is within the range constituting the “forum rate” generally applied by courts in the Eastern District of New York/Southern District of New York for attorneys of similar experience. See Farrington v. Jewish Voice Inc., No. 21-CV-1575 (NGG) (AYS), 2022 U.S. Dist. LEXIS 21812, at *15 (E.D.N.Y. Feb. 7, 2022) (“In copyright cases, courts in this district have approved rates between \$350 and \$500”); Pyatt v. Raymond, 2012 U.S. Dist. LEXIS 58879, at *16 (S.D.N.Y. Apr. 25, 2012) (collecting cases approving \$400 to \$650 hourly rates for partners in copyright and trademark cases); Bass v. Diversity Inc. Media, No. 19-cv-2261 (AJN), 2020 U.S. Dist. LEXIS 93318, at *14 (S.D.N.Y. May 28, 2020) (“A review of cases in this District and in the Eastern District of New York suggests that courts have approved associate rates of \$350 and up to \$500 for partners in copyright cases.”); Tetra Images, LLC v. Grahall Partners, LLC, No. 19-CV-05250 (PMH), 2021 U.S. Dist. LEXIS 125809, at *10-11 (S.D.N.Y. July 6, 2021) (in copyright infringement case, finding \$475.00 hourly rate for managing partner in Florida and \$450.00 hourly rate for partner in New York office to be reasonable); McLaughlin v. IDT Energy, No. 14 CV 4107 (ENV)(RML), 2018 U.S. Dist. LEXIS 128347, at *51-53 (E.D.N.Y. July 30, 2018) (finding award of rates typical to the Eastern District and noted to be: “\$550 for partners/equity owners with more than thirty years of experience, \$500 for partners/equity owners with more than fifteen years of experience, \$450 for partners/equity owners with more than ten years of experience, \$400 for senior associates/associates with more than ten years of experience, \$350 for senior associates/associates with six to nine years of

experience, \$300 for associates with three to five years of experience, \$250 for associates with fewer than three years of experience”); Schwartz v. United States DEA, No. 13-CV-5004 (CBA) (ST), 2019 U.S. Dist. LEXIS 34165, at *26-27 (E.D.N.Y. Mar. 1, 2019) (awarding \$500 hourly fee to partner litigating FOIA litigation, and listing awards of between \$500 and \$655 per hour for partners handling complex litigation); Nat'l Env'tl. Saf. Co. v. Katz, No. 18-cv-02161 (JMA) (GRB), 2019 U.S. Dist. LEXIS 76044, at *5 (E.D.N.Y. May 6, 2019) (award based upon \$500-\$600 hourly rate to partners and \$300 hourly rate for associates litigating breach of contract case).

12. Further, the hourly rates for both myself and for CopyCat Legal’s paralegals have previously been found to be reasonable by multiple federal courts. See, e.g., Patriot Fine Foods, at pp. 11 – 12 (“In light of counsel’s experience (*see id.* ¶¶ 2–5), and the prevailing market rates, and Defendant’s failure to oppose the reasonableness of the rate, I find that the proposed hourly rate of \$450 is reasonable based upon the facts and circumstances of this case, including Defendant’s default.”); Afford. Aerial Photography, Inc. v. Elegance Transp., Inc., No. 6:21-cv-1166-CEM-LHP, 2022 U.S. Dist. LEXIS 32586, at *29 (M.D. Fla. Feb. 23, 2022) (finding undersigned counsel’s \$450.00 hourly rate and Ms. Thomas’ \$125.00 hourly rate to be reasonable in copyright infringement case); Temurian v. Piccolo, No. 18-CV-62737-SMITH/VALLE, 2021 U.S. Dist. LEXIS 63144, at *6 (S.D. Fla. Mar. 30, 2021) (in commercial litigation case, finding undersigned counsel’s \$400.00 hourly rate reasonable for work performed from 2018 – 2020). Additionally, the rate for CopyCat Legal’s junior associate attorney has previously been found reasonable. See Harrington v. Vintage Ways, No. 1:22-CV-0971-TWT (N.D. Ga.) (“The Court further finds . . . that \$300.00 is a reasonable hourly rate for the junior associate attorney . . . given the complexity of the matter, the results obtained, and the experience of Plaintiffs’ counsel which the Court found to be substantial.”).

13. I am familiar with the lodestar method of determining the reasonableness of attorneys' fees. "The 'lodestar method' is the accepted analysis for determining a reasonable fee amount for a prevailing party in federal court." Kerner v. City & Cty. of Denver, 733 F. App'x 934, 936 (10th Cir. 2018); See Gisbrecht v. Barnhart, 535 U.S. 789, 801-02, 122 S. Ct. 1817, 152 L. Ed. 2d 996 (2002). The above-described fees are reasonable for the services provided to Plaintiff.

14. In addition, CopyCat Legal incurred \$577.00 in actual costs on Plaintiff's behalf in connection with pursuing this lawsuit, all of which is properly taxable. Invoices for such are attached hereto as Exhibit "1" and separately on Plaintiff's Bill of Costs.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: December 8, 2022

/s/ Daniel DeSouza

Daniel DeSouza

EXHIBIT “1”

Copycat Legal PLLC
 3111 N University Drive
 Suite 310
 Coral Springs, FL 33065
 877-437-6228



Prepared Food Photos, Inc.

38 Church Street
 Pawtucket, RI 02860
 United States

Balance \$3,582.00
Invoice # 00132
Invoice Date December 8, 2022
Payment Terms
Due Date

**Prepared Food Photos, Inc. v. Trip
 Restaurant LLC d/b/a Wellington's
 Grill**

Time Entries

DATE	EE	ACTIVITY	DESCRIPTION	RATE	HOURS	LINE TOTAL
05/31/2022	DD	Time	drafted and sent demand package	\$450.00	1.10	\$495.00
07/24/2022	DD	Time	sent follow up email - conducted research and found infringing photo still published. Took Fireshot and saved in Wayback.	\$450.00	0.30	\$135.00
08/01/2022	HT	Time	called infringer to follow up - left message	\$125.00	0.10	\$12.50
08/09/2022	HT	Time	called infringer again to follow up	\$125.00	0.10	\$12.50
08/09/2022	HT	Time	follow up email sent to infringer	\$125.00	0.10	\$12.50
09/16/2022	LH	Time	drafted complaint for supervising attorney's review	\$300.00	2.30	\$690.00
09/16/2022	DD	Time	reviewed and edited draft complaint	\$450.00	0.30	\$135.00
09/16/2022	LH	Time	incorporated supervising attorney's edits and filed complaint, summons and cover sheet	\$300.00	0.20	\$60.00
09/23/2022	HT	Time	sent summons to process server	\$125.00	0.10	\$12.50
11/02/2022	LH	Time	drafted and filed request for clerk's certificate of default	\$300.00	0.20	\$60.00
11/10/2022	LH	Time	re-filed request for clerk's certificate of default	\$300.00	0.10	\$30.00
12/08/2022	DD	Time	drafted motion for default final judgment	\$450.00	2.80	\$1,260.00
12/08/2022	LH	Time	filed motion for default final judgment	\$300.00	0.30	\$90.00
					Totals:	8.00 \$3,005.00

Expenses

DATE	EE	ACTIVITY	DESCRIPTION	COST	QUANTITY	LINE TOTAL

09/16/2022	DS	Complaint Filing Fee		\$402.00	1.0	\$402.00
09/30/2022	DS	Process Server	Preferred Process Servers (Inv.#1517122)	\$175.00	1.0	\$175.00
Expense Total:						\$577.00

Time Entry Sub-Total: \$3,005.00
Expense Sub-Total: \$577.00

Sub-Total: \$3,582.00

Total: \$3,582.00
Amount Paid: \$0.00

BALANCE DUE: **\$3,582.00**

PREFERRED PROCESS SERVERS INC.

166-06 24th Road, Whitestone, NY 11357

Phone 718-362-4890 -- FAX 718-352-0400
info@ppservers.com

Attn:

COPYCAT LEGAL
3111 NORTH UNIVERSITY DRIVE, STE#301
CORAL SPRINGS, FL 33065**Due By: 10/30/2022**

Invoice Date: 9/30/2022

Invoice #: 1517122

Job#: 1517122

Client File#: prepared vs. trip

TOTAL INVOICE AMOUNT DUE**\$175.00**

Job #: 1517122	Your #: prepared vs. trip	Recipient:	Date Received:
Plaintiff:	PREPARED FOOD PHOTOS INC F/K/A ADLIFE	TRIP RESTAURANT LLC C/O	9/26/2022
Defendant:	TRIP RESTAURANT LLC D/B/A WELLINGTON'S GRILL	Person Served:	Completed:
Index Number	1:22-CV-7953	JUSTIN "DOE"	9/27/2022
Documents:	SUMMONS IN A CIVIL ACTION - COMPLAINT	110 HALSTEAD AVENUE , HARRISON , NY 10528	
Description		Qty	Fee
Standard Service IN HAND ONLY TO AGENT - WESTCHESTER COUNTY		1	\$175.00
		Job Total Due =	\$175.00

TOTAL INVOICE CHARGES:	\$175.00
TOTAL INVOICE PAYMENTS:	
TOTAL INVOICE AMOUNT DUE:	\$175.00